

OCT 20 2009

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION

JOHN F. CORCORAN, CLERK  
BY: *S. Taylor*  
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UNITED STATES OF AMERICA, ) Criminal Action No. 6:03cr30073-2  
)  
v. ) 2255 MEMORANDUM OPINION  
)  
JAMES R. DAVIS. ) By: Samuel G. Wilson  
) United States District Judge

Petitioner, James R. Davis, a federal inmate proceeding pro se, filed a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. However, upon review of the court's records, the court finds that his § 2255 motion must be dismissed as successive.

I.

Davis challenges his 240-month sentence for conspiring to distribute methamphetamine, in violation of 21 U.S.C. § 846. Court records indicate that Davis has previously filed a § 2255 motion, see Civil Action No. 7:07-cv-00077 (W.D. Va. Mar. 1, 2007), regarding the same conviction and sentence. This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255(h). As Davis has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court must dismiss his motion as successive.<sup>1</sup>

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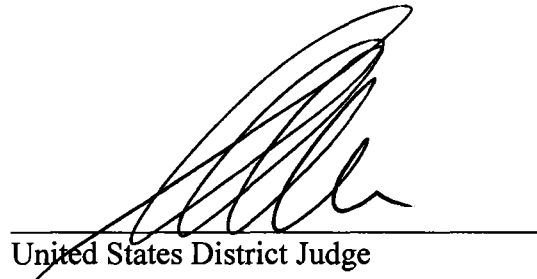
<sup>1</sup> Petitioner is hereby advised of the procedure for obtaining certification from the United States Court of Appeals for the Fourth Circuit to have this court review a successive § 2255 motion. Petitioner must submit a copy of the successive § 2255 motion to the Court of Appeals, along with a motion requesting a three-judge panel certification that the district court may review the successive § 2255 motion. See 28 U.S.C. § 2244 (as amended, 1996). A Fourth Circuit form and instructions for filing this motion will be included with this notice or are available from the Fourth Circuit at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.

**II.**

For the reasons stated, the court dismisses Davis' § 2255 motion as successive

The Clerk is directed to send certified copies of this Memorandum Opinion and the accompanying Order to all parties.

**ENTER:** This 20<sup>th</sup> day of October, 2009.



United States District Judge